## UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

MARY HAYWOOD, MARTHA	)
LEWIS, ANNIE STUBENFIELD,	)
A.D. LINDSEY, ESSIE MCALLISTER,	) Case No. 1:15-CV-8317
and SANDRA WALTON, on behalf of	)
themselves and all others similarly	)
situated,	) Judge Gary Feinerman
Plaintiffs,	) ) Magistrate Judge Jeffrey T. Gilbert
v.	)
CHICAGO HOUSING AUTHORITY,	)
an Illinois municipal corporation,	)
	)
Defendant.	)

## <u>PLAINTIFFS' MOTION FOR LEAVE TO SUBMIT ADDITIONAL AUTHORITY IN SUPPORT OF THEIR RESPONSE TO DEFENDANT'S MOTION TO DISMISS</u>

Plaintiffs, through their attorneys, ask the Court for leave to submit additional authority in support of their response to Defendant's motion to dismiss, stating in support as follows:

- 1. On January 5, 2016, Defendant Chicago Housing Authority ("CHA") filed its motion to dismiss in this case. Dkt. No. 25. On February 4, 2016, Plaintiffs filed their response to the motion to dismiss, dkt. no. 38, and on February 23, 2016, CHA filed its reply. Dkt. No. 42.
- 2. One of the issues discussed in the parties' briefs is whether "rent" for purposes of the Brooke Amendment, 42 U.S.C. § 1437a(a)(1), means "total tenant payment" or "tenant rent." *Compare* 24 C.F.R. § 5.628, *with* 24 C.F.R. § 5.603.
- 3. One day before Plaintiffs submitted their brief, HUD issued a notice entitled, "Strengthening Oversight of Over-Income Tenancy in Public Housing; Advance Notice of Proposed Rulemaking." 81 Fed. Reg. 5677-01 (Feb. 3, 2016) (attached as Exhibit A). The notice

requests comments on proposed rules "to ensure that individuals and families residing in HUD public housing in fact continue to need housing assistance . . . after admission." *Id*.

- 4. Relevant to this case, the notice states as follows, "An individual's or family's rent is referred to as the Total Tenant Payment (TTP) and is based on a family's anticipated annual income less deductions, if any, or the applicable flat rent." *Id*.
- 5. Plaintiffs believe that HUD's statement in the notice supports their argument that Brooke Amendment "rent" means "Total Tenant Payment" and, therefore, includes the reasonable cost of utilities paid to third parties. *See* Dkt. No. 38 at 7-14; 24 C.F.R. § 960.253.
- 6. Plaintiffs did not learn about the recently issued HUD notice until after they filed their brief. Accordingly, they now ask the Court for leave to submit this additional authority in support of their response to Defendant's motion to dismiss.

Respectfully	submitted:
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/s/ Christo	pher J. Wilmes

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